



Florida State Board of Administration
FRS Investment Plan QDRO Administration

Florida Retirement System Investment Plan
Model Language and Procedures Guide

As of May 29, 2008

TABLE OF CONTENTS

DEFINITION OF A DOMESTIC RELATIONS ORDER 2

1. QUALIFICATION REQUIREMENTS 2

 1.1. General Qualification Requirements..... 2

 1.2. Additional Requirements 3

 1.2.1. Earnings (Gains and Losses)..... 3

 1.2.2. Distribution Options..... 3

 1.2.3. Designation of Alternate Payee’s Beneficiaries..... 3

2. TAXES 3

3. PRE-QUALIFICATION OF AN ORDER 3

4. THE QDRO DETERMINATION PROCESS..... 4

 4.1. Notice of Receipt

 4.2. Restriction of Benefits

 4.3. Removing Benefit Restrictions

 4.4. Notification of Determination

 4.5. Address

5. MODEL LANGUAGE 5

DEFINITION OF A DOMESTIC RELATIONS ORDER

A Domestic Relations Order ("DRO") is a court order, issued pursuant to State domestic relations law, that recognizes the right of a spouse, former spouse, child, or other dependent of a Member in an employee benefit plan to receive all or part of the Member's benefit in the plan.

A Qualified Domestic Relations Order ("QDRO") is a DRO that has met the specific requirements mandated by federal law and the provisions of the Plan as determined by QDRO Administration, as a delegate of the Florida State Board of Administration (the SBA). A QDRO requires a qualified plan to pay all or part of a Member's benefits to an Alternate Payee. An Alternate Payee is a spouse, former spouse or dependent of the Member who is awarded a portion of the Member's benefits.

1. QUALIFICATION REQUIREMENTS FOR A QDRO

1.1. GENERAL QUALIFICATION REQUIREMENTS

The following list represents a synopsis of the requirements of IRC Section 414(p) as they apply to the Florida Retirement System Investment Plan.

1. The order must identify the name of the Plan: *Florida Retirement System Investment Plan* **or** *FRS Investment Plan*.
2. Orders that require the State of Florida to make distributions to an Alternate Payee will be rejected. The order must specifically require the Plan to make distribution to an Alternate Payee. Orders that merely obligate the Member cannot be accepted as QDROs.
3. The order must specify an ex-spouse, spouse, child, or other dependent of the Member as the Alternate Payee. Orders that require payments to be issued in the name of an attorney or official agency, or to any party other than a bona fide Alternate Payee, will be rejected.
4. The order must have been issued pursuant to state domestic relations.
5. The order must contain the last known mailing address of the Member and the Alternate Payee.
6. The order must clearly define the Alternate Payee's award. The order must award the Alternate Payee a dollar amount or percentage of the Member's total vested account balance as of a specified date of division.
7. The order cannot award benefits to an Alternate Payee in excess of the Member's account balance as of the specified date of division. Nor can the order result in segregation to the Alternate Payee of an amount exceeding the Member's vested account balance as of the date of such segregation.
8. The order cannot award benefits to an Alternate Payee which have already been awarded to another Alternate Payee under a prior Qualified Domestic Relations Order.
9. The order may award non-vested Plan benefits, but the Alternate Payee's distribution will be deferred to such time as the Member's account is fully vested or sufficiently vested to satisfy the QDRO award, depending upon the intent clearly expressed in the order. In no event, will the Alternate Payee's distribution exceed the Member's vested account balance. Such vesting requirements are set forth in Section 121.4501(6), Florida Statutes.

10. The order cannot require the Plan to make a form of distribution to an Alternate Payee, or to take any other action not provided for by the Plan or permitted by law.

1.2. ADDITIONAL REQUIREMENTS

1. Earnings (Gains and Losses)

The order must clearly state whether the Alternate Payee's benefit will be adjusted for gains and losses from the *effective date of the award* through the date of distribution. The *effective date of the award* is the latter of the division date as defined by the order and the date at which the Member's account is created by a transfer of funds from the Florida Retirement System Pension Plan. If the order does not explicitly assign earnings, the Alternate Payee's benefit will **not** be adjusted for gains and losses.

2. Distribution Options

Upon determination that an order meets the requirements of a QDRO, a separate account in the name of the Alternate Payee will be established, and the Alternate Payee will be mailed a personal identification number (PIN) in order to access the account. The Alternate Payee will also receive an enrollment kit that provides information about the FRS Investment Plan.

3. Designation of Alternate Payee's Beneficiaries

The Alternate Payee shall designate, on a form provided by the Investment Plan Administrator, the person(s) to whom the Alternate Payee's benefit is to be paid in the event of the Alternate Payee's death.

2. TAXES

If the Alternate Payee is the spouse or former spouse of the Member, the Alternate Payee will be responsible for any taxes on the distribution. However, if the Alternate Payee is a child of the Member, the Member is responsible for taxes on the Alternate Payee's awarded benefit, when paid.

The Member and the Alternate Payee are encouraged to meet with a tax advisor, financial advisor or attorney to discuss the tax ramifications of any distributions or assignments. QDRO Administration will not provide personal tax advice.

3. PRE-QUALIFICATION OF AN ORDER

It is recommended that an order be submitted in draft form to QDRO Administration prior to its execution by the court to save the parties the time and expense of having an order executed by the court that is unacceptable to the Plan. By using the Model Language, it is more likely that the order will be acceptable to the Plan. However, it is still recommended that the order be submitted for review before it is presented to the court.

To determine whether the order complies with the administrative requirements of the Plan, submit each order for review, *preferably before entry with the court*, to:

FRS Investment Plan
QDRO Administration
Post Office Box 57130
Jacksonville, FL 32241-7130
Phone: (904) 791-2909
Fax: (904) 791-2328

4. THE QDRO DETERMINATION PROCESS

The following sets forth the procedures that will be followed by the Plan in determining whether an order is a QDRO within the meaning of IRC Section 414(p) and ERISA Section 206(d), and in administering distributions under a QDRO.

4.1. NOTICE OF RECEIPT

QDRO Administration will upon receipt of a domestic relations order, including a divorce or alimony order, separation agreement, or support order (“Order”), notify the Member and the Alternate Payee(s) named in the order, of receipt of the order. Notice will be mailed to the address(es) specified in the order, or if no such address is given, to the last address known by the Investment Plan Administrator or QDRO Administration. This notification will be mailed within 5 business days of receipt.

4.2. RESTRICTION OF BENEFITS

Upon receipt of an initial draft order (or a written notice of intent to obtain a Qualified Domestic Relations Order), QDRO Administration will place a hold on the Member’s account. If an executed order is not received within the 6-month hold period, the hold will be released.

Upon receipt of an executed order, QDRO Administration will place a hold on the Member’s account. The hold will be maintained for 18 months.

A hold will prevent the Member from taking any distributions from the Plan, but will not prevent the Member from making investment elections, fund transfers or reallocations.

Any executed order that is received by the Plan after an initial hold period has expired will only apply to such balance as may remain in the Member’s account when a new hold is placed following receipt of such order. And this subsequent hold will be maintained only for such time as is needed to determine the acceptability of the order as a QDRO.

4.3. REMOVING BENEFIT RESTRICTIONS

When a court order is on file, restrictions may be lifted from the plan upon the following:

- Qualification of a domestic relations order
- Receipt of a court order, which clearly nullifies an Alternate Payee's rights to the Member's interest in the plan
- Expiration of the 18-month hold period.

When a draft order is on file, restrictions may be lifted from the plan upon the following:

- Qualification of a domestic relations order
- Receipt of a notarized authorization signed by the Alternate Payee, which states that the benefits are relinquished to the Member.
- Expiration of the 6-month hold period.

4.4. NOTIFICATION OF DETERMINATION

Within a reasonable period of time, QDRO Administration will determine whether the Order qualifies as a Qualified Domestic Relations Order ("QDRO"), in accordance with the applicable statutes and Plan provisions. Once the status of the Order is determined, QDRO Administration will notify the Member and each Alternate Payee (or the designated representative of such payee) in writing of its determination. If the Order does not qualify as a QDRO, the notification will describe the defects in the Order and may include a copy of the Plan's Model Language.

4.5. ADDRESS

It is the obligation of the Member and Alternate Payee to keep QDRO Administration informed of any changes in address. The Plan assumes no responsibility for locating and paying individuals not fulfilling such obligation.

5. MODEL LANGUAGE

Model language is available to assist in the drafting of a QDRO that meets the requirements of federal law and each Plan's provisions. An order drafted using the model language must still be reviewed and formally approved by QDRO Administration. QDRO Administration cannot represent that the use of the model language will be appropriate in any specific case. The model language has been designed solely as a guide to be used in drafting a QDRO and may be modified as necessary. It should not be relied upon to satisfy the laws of any particular state. It is strongly recommended that the drafter be thoroughly familiar with applicable law and the model language before deciding to use the model language.

Model Order

IN THE _____ COURT OF _____
DIVISION _____ COUNTY _____

IN RE MARRIAGE/SUPPORT OF

PETITIONER

V.

Case No.

RESPONDENT

QUALIFIED DOMESTIC RELATIONS ORDER

This order is intended to be a qualified domestic relations order (“QDRO”), as that term is defined in section 206(d) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”) and section 414(p) of the Internal Revenue Code of 1986, as amended (“Code”). This QDRO is granted in accordance with **[insert the applicable state domestic relations law, statute or code section citations]**, which relate to marital property rights, child support, and/or spousal support between spouses and former spouses in matrimonial actions.

I. PLAN

The term "Plan" shall refer to the Florida Retirement System Investment Plan or FRS Investment Plan.

- (a) Any successor to this Plan shall also be subject to the terms of the order.
- (b) The Florida State Board of Administration (SBA) is the sponsor of the Plan.
- (c) For the purposes of this Order, the Plan’s address is as follows:

FRS Investment Plan
QDRO Administration
Post Office Box 57130
Jacksonville, FL 32241-7130

2. IDENTIFICATION OF THE MEMBER

The name and last known mailing address of the Member are as follows.

Name:

Complete Address:

The Member's dates of birth and Social Security Number have been provided under separate cover.

3. IDENTIFICATION OF THE ALTERNATE PAYEE

The name and last known mailing address of the Alternate Payee are as follows.

Name:

Complete Address:

The Alternate Payee's dates of birth and Social Security Number have been provided under separate cover.

The Alternate Payee is the [spouse, former spouse, child] of the Member.

4. BENEFIT AWARDED TO THE ALTERNATE PAYEE

As soon as administratively possible, the Plan shall establish an account for the exclusive benefit of the Alternate Payee and transfer into such account [insert percent or dollar amount] of the Member's account balance as of the *Division Date*.

The *Division Date* shall be the latter of [insert a date subsequent to July 31, 2002] and the date when funds are transferred from the FRS Pension Plan to the Member's account in the FRS Investment Plan.

The Alternate Payee's account balance [will /will not] be adjusted for investment earnings (gains and losses) from the *Division Date* to the date as of which the account is established for the Alternate Payee.

With respect to the Alternate Payee's account, the Alternate Payee shall have the same rights as the Member would have had in the absence of this Order.

Following the establishment of the Alternate Payee's account, the Alternate Payee shall have the right to take distribution of vested amounts, make investment elections and to name or change beneficiaries.

The Alternate Payee's vested rights shall be determined based on the vested rights of the Member at such time as the Alternate Payee takes a distribution.

5. COMMENCEMENT OF BENEFITS

The Plan shall establish an account for the Alternate Payee as soon as administratively feasible after QDRO Administration's acceptance of this Order as a Qualified Domestic Relations Order.

6. DEATH OF MEMBER

Payment of the Alternate Payee's separate interest shall not be affected by the Member's death.

7. DEATH OF THE ALTERNATE PAYEE PRIOR TO DISTRIBUTION

The Alternate Payee may designate, on a form provided by the Investment Plan Administrator, a beneficiary (or beneficiaries) to whom the Alternate Payee's separate interest is to be paid in the event of the Alternate Payee's death. If the Alternate Payee dies before designating a beneficiary, payment of the Alternate Payee's separate interest will be made in accordance with the rules of the Plan.

8. COMPLIANCE WITH APPLICABLE LAWS AND THE PLAN

The parties to this order intend that it comply with the applicable provisions of ERISA and the Code.

- (a) The Member and Alternate Payee shall each be responsible for his or her own federal, state and local income taxes and any other taxes attributable to any and all payments from the Plan which are received by the Member or the Alternate Payee, respectively.

If the Alternate Payee is not the spouse or former spouse of the Member, the preceding paragraph should be replaced by:

- (a) The Member is responsible for all taxes attributable to any and all payments from the Plan pursuant to this order.*
- (b) The Member and the Alternate Payee shall notify the Plan of any change of address.
- (c) No provision in this order requires the Plan to make any payment or take any action that is inconsistent with any federal law, rule, regulation or applicable judicial decision.
- (d) No provision in this order requires the Plan to provide any type or form of benefit, or any option, which is not otherwise available under the Plan.
- (e) No provision in this order requires the Plan to pay benefits in excess of the benefits that would be payable to the Member (or Member's beneficiaries) in the absence of this order.
- (f) No provision in this order requires the Plan to pay benefits to an Alternate Payee, that are required to be paid to another Alternate Payee under another order previously determined to be a QDRO.
- (g) The undertakings and obligations of the Plan as set forth in this order are solely those of the Plan. Neither the SBA, nor any of its affiliates, nor any officers, employees or agents of any such entities shall be deemed to have incurred any obligations under this order.
- (h) This order shall supersede any previous order in this cause. The SBA, the Florida Retirement System, the Division of Retirement, Department of Management Services of the State of Florida and all agents of such entities are hereby released from any liability or responsibility under any such order.
- (i) If any party makes any claim which the SBA determines to be inconsistent with this order, the Plan may cease making further payments to any person whose rights, in the sole judgment of the SBA, may be affected by such claim pending resolution of the claim or further order of this Court. The Plan may also take such further action or actions as may be permitted by law with respect to such claim.
- (j) The Member is designated as a constructive trustee for any payments that are received by the Member, but are due to the Alternate Payee. The Member will remit any such payment to the Alternate Payee within five (5) days of receipt of such payment.

9. RESERVATION OF JURISDICTION

This Court reserves jurisdiction over the parties and the Plan until such time as the obligations of the Plan to the Alternate Payee under this Order have been fully paid and discharged. Further, this Court reserves jurisdiction to amend this Order to establish or maintain its status as a QDRO under ERISA and the Code.

IT IS SO ORDERED:

This date:

By the Court:

Judge's Signature